

Outline of the Topics to be covered in the Fourth Report of the Hong Kong Special Administrative Region under the United Nations Convention on the Elimination of All Forms of Discrimination against Women

Submission from the Equal Opportunities Commission

As an independent statutory body with responsibility for implementing the four discrimination ordinances in Hong Kong,¹ the Equal Opportunities Commission (EOC) would like to provide the following views and comments for the captioned outline document, regarding the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Article 2: Obligations of State Parties

Discrimination Law Review

The EOC submitted a report to the Government in March 2016 to propose for reforming the existing discrimination legislations, after conducting a comprehensive Discrimination Law Review (DLR)² with a four-month-long public consultation. The report contains 73 key recommendations on law reforms, with 27 set out for priority actions, which are essential for modernising and strengthening the protection of the anti-discrimination ordinances. Among those, various recommendations are related to the elimination of sex discrimination and promotion of gender equality in Hong Kong.

¹ The four discrimination ordinances are: the Sex Discrimination Ordinance (SDO), the Disability Discrimination Ordinance (DDO), the Family Status Discrimination Ordinance (FSDO), and the Race Discrimination Ordinance (RDO).

² <http://www.eoc.org.hk/eoc/upload/DLR/2016330179502227490.pdf>

While welcoming the Government's undertaking to implement nine recommendations, the EOC urges the Government to seriously consider and implement the rest of the recommendations, and update the general public in its report with a clear timeline on their implementation, under Article 2 of CEDAW.

Sexual harassment and sexual violence against women

According to CEDAW General Comment No. 19,³ the Committee on the Elimination of Discrimination against Women recommended states parties to include in their reports information on sexual harassment and relevant measures to protect women. Currently, different departments of the Government like the Hospital Authority, Security Bureau, Education Bureau and Social Welfare Department adopt various standards and mechanisms for collecting statistics of sexual harassment incidents occurred at hospitals, disciplinary forces, schools and residential care homes.

Therefore, the EOC recommends the Government to inform the general public in its report with accurate statistical data of sexual harassment incidents occurred in the abovementioned institutions/bodies, using the legal definition of sexual harassment stipulated in the SDO. Also, the Government should oblige those institutions/bodies to report all sexual harassments incidents and publish the statistics regularly.

Moreover, the EOC urges the Government to address paragraph 54 – 55 of the Concluding Observation and update the public in its report regarding the latest progress of law reform for sexual offences involving children and persons with mental impairment, as proposed by the Law Reform Commission in 2016.⁴

³ <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>

⁴ The EOC has submitted its response on this issue to the Law Reform Commission in February 2017: <http://www.eoc.org.hk/eoc/upload/201721016136562806.pdf>

Article 5: Stereotyping and Prejudices

The Outline stated that paragraphs 68 – 69 of the Concluding Observations regarding discrimination against lesbian, transsexual and transgender women will be addressed under Article 5.

According to EOC's *Study on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity (SOGI) and Intersex Status* published in 2016,⁵ public opinion of Hong Kong has visibly shifted in favour of legislation against discrimination on the grounds of SOGI and intersex status. Over half (55.7%) of the survey respondents agreed with legislation—nearly double the comparable figure from a decade ago. Notably, the vast majority (91.8%) of youth considered anti-discrimination legislation necessary, while nearly half (48.9%) of those with religious views also concurred.

Therefore, the EOC urges the Government to update the public in its report about the latest development, plan and timeline for introducing a comprehensive gender recognition law and anti-discrimination legislation for lesbian, transsexual and transgender women.

Article 11: Equality in Employment and Labour Rights

The EOC investigated 1,809 new complaints lodged under SDO between 2010 and 2017. Amongst them, pregnancy discrimination remained the major area of complaints, amounting to 737 cases (41% of the total). According to EOC's *Study on Pregnancy Discrimination and Negative Perceptions Faced by Pregnant Women and Working Mothers in Small and Medium Enterprises* issued in 2016,⁶ over one in five (22%) employee respondents reported that they were discriminated during

⁵ <http://www.eoc.org.hk/eoc/upload/ResearchReport/20161251750293418312.pdf>

⁶ <http://www.eoc.org.hk/eoc/upload/ResearchReport/20169281137202878231.pdf>

pregnancy, maternity leave, and/or within the first year after returning to work from giving birth.

In light of that, the EOC recommended in the DLR in 2016 that the Government should introduce a statutory right of women to return to their previous role after maternity leave, or if that position no longer exists, a suitable alternative position on similar terms and conditions. Therefore, the EOC suggests the Government to update the public in its report under Article 11 of CEDAW, regarding its latest effort and plans for better protecting the right of pregnant women to return to a position after maternity leave.

Equal Opportunities Commission

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